

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ROBERT MILLER, §
Plaintiff, §
v. § Case No. 6:19-CV-189-JDK-JDL
BRIAN COLLIER, *et al.*, §
Defendants. §

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Robert Miller, an inmate confined at the Skyview Unit of the Texas prison system, proceeding pro se and seeking to proceed *in forma pauperis*, brings this civil rights lawsuit pursuant to 42 U.S.C. § 1983. Docket No. 1. The case was referred to United States Magistrate Judge John D. Love (Docket No. 8), who issued a Report and Recommendation (Docket No. 11) concluding that the lawsuit should be dismissed for purposes of *in forma pauperis* proceedings pursuant to the “three strikes” provisions of 28 U.S.C. § 1915(g). On June 4, 2019, Plaintiff received a copy of the Magistrate Judge’s Report and Recommendation. Docket No. 12. The Report and Recommendation informed Petitioner of his right to object to the Report and Recommendation within 14 days. Docket No. 11. Plaintiff did not object.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party files objections within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from 10-14 days). Because Plaintiff

did not file objections, the Court will review the Magistrate Judge's findings for clear error or abuse of discretion and will review his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the findings and conclusions of the Magistrate Judge, the Court agrees with the Magistrate Judge. The Court therefore adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED WITH PREJUDICE** for the purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that Plaintiff's motions to proceed *in forma pauperis* (Docket Nos. 2 & 5) are **DENIED**. Further, Plaintiff's Motion for Preliminary Injunction (Docket No. 10) is **DENIED**. This Order does not bar refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full \$400.00 filing fee. Plaintiff may resume the lawsuit if he pays the entire filing fee of \$400 within fifteen (15) days after the entry of Final Judgment. It is finally

ORDERED that all motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this 11th day of July, 2019.



JEREMY D. KERNODEL
UNITED STATES DISTRICT JUDGE